

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	2:06-cr-197
)	
v.)	
)	
KEITH EDWARDS,)	
)	
Defendant.)	

MEMORANDUM ORDER

Pending before the Court is a “Request for Sentence Reduction” (Document No. 31) dated March 9, 2010, which was submitted to the Court by Defendant Keith Edwards pro se . The Court has interpreted this document as a Motion for Sentence Reduction pursuant to 18 U.S.C. § 3582(c). Attached to the motion is Mr. Edwards’ “Release Plan” that sets forth the “comprehensive reentry strategy for successful reintegration into the community.” The government has not filed a response.

On June 28, 2006, Edwards waived indictment and pled guilty to both counts of a two-count Criminal Information at No. 06-197 which charged him at Count 1 with possession with intent to distribute five grams or more of crack cocaine, and at Count 2 with possession of a firearm in furtherance of a drug trafficking crime. On October 4, 2006, this Court sentenced Edwards to a term of imprisonment of 87 months at Count 1 and 60 months at Count 2, to be served consecutively, for a total of 147 months. The sentence reflected the low end of the guideline range at Count 1, and the mandatory statutory minimum at Count 2. On January 11, 2008, the Court granted the government’s motion pursuant to Fed. R. Crim. P. 35(b) and re-sentenced Edwards to a term of imprisonment of 44 months at Count 1 and 30 months at Count

2, to be served consecutively, for a total of 74 months.

Subsequently, counsel for Edwards filed an uncontested motion to reduce the sentence he received for the crack cocaine offense in accordance with amendments to the United States Sentencing Guidelines that reduced the offense level for crack cocaine offenses by two levels. On January 15, 2009, the Court granted the motion and further reduced Edwards' term of imprisonment on Count 1 from 44 months to 35 months. The consecutive 30 month sentence at Count 2 remained unchanged, for a total term of imprisonment of 65 months. The Court noted in its Order that the advisory guideline term of imprisonment on Count 1, after application of the crack cocaine amendment, was 70-87 months. The Court further noted that the previous term of imprisonment was less than the advisory guideline range as a result of the Rule 35(b) motion, and that the reduced sentence was comparably less than the amended advisory guideline range.

In the pending motion, Edwards recognizes and "sincerely appreciate[s] the earlier two point reduction the Court granted in 2009." However, he requests a further sentence reduction on the grounds that: (1) his sentence under the Anti-Drug-Abuse Act is not consistent with the Equal Protection clause of the United States Constitution; and (2) the objectives of his incarceration have been accomplished.

The motion will be denied as untimely. None of the prerequisites set forth in 18 U.S.C. § 3582(c) ("Modification of an imposed term of imprisonment") have been met. Therefore, the general rule that a "court may not modify a term of imprisonment once it has been imposed" remains in effect. Pursuant to Fed. R. Crim. P. 35(a), the Court may correct a sentence only within 14 days after sentencing, and only if the sentence resulted from an arithmetic, technical or other clear error. *See, e.g., United States v. Zavala*, 2006 WL 1371049 (E.D. Pa. 2006) (rejecting

similar untimely request for reduction of sentence due to lack of jurisdiction). Even if the motion were timely, the Court would not be inclined to grant it because Edwards has been sentenced to a term of imprisonment that is already well below the advisory guideline range. Nevertheless, the Court is impressed by the "Release Plan" that has been developed by Mr. Edwards and encourages him to continue his effective efforts at rehabilitation during the remainder of his incarceration.

In accordance with the foregoing, the Motion for Sentence Reduction (Document No. 31) filed by Defendant Edwards is **DENIED**.

SO ORDERED this 30th day of March, 2010.

BY THE COURT:

s/ Terrence F. McVerry
United States District Court Judge

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